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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,509	06/26/2001	Thomas M. Colandene	NVL 3107	1100

7590

08/07/2003

DEPARTMENT OF THE ARMY - CECOM
INTELLECTUAL PROPERTY DIVISION
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EXAMINER

MARTINEZ, JOSEPH P

ART UNIT

PAPER NUMBER

2873

DATE MAILED: 08/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/888,509

Applicant(s)

COLANDENE, THOMAS M.

Examiner

Joseph Martinez

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7-14-03 has been entered.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 and 4-6 are rejected under 35 U.S.C. 102(b) as being fully anticipated by Otsuka (6040591).

Re claims 1 and 4, Otsuka teaches for example, a method and apparatus for providing a micro-optic function within an optical system (sensor system 101, fig. 2) comprising: a focal plane array (FPA) (vertical CCD register 1, fig. 5), wherein input radiation from a viewed scene (light L, fig. 5) is received by the optical system; and a substrate (adjusting layer, fig. 5) with a front side and a backside further including at least one microlens (microlens 17, fig. 5) attached thereto, to place said microlens between said FPA and said substrate (fig. 5, col. 4, ln. 7-9), said substrate being positioned approximate to the focal plane (fig. 5) within said optical system, wherein said microlens re-focuses said radiation and re-directs said radiation onto said detector surface (light L, fig. 5).

Re claim 5, supra claim 4. Otsuka further teaches for example, the micro-optic effect is an improved detector fill factor (col. 2, ln. 10-14).

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Re claim 6, supra claim 1. Otsuka further teaches for example, focal plane array further comprises at least one optical detector (photosensor 2, fig. 5), each said optical detector corresponding to a respective microlens (fig. 5).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Otsuka in view of Gal (5497269).

Re claims 2 and 3, supra claim 1. Otsuka teaches for example, the apparatus with microlenses as disclosed above, but fail to implicitly teach a refractive or diffractive lens structure. However, Gal teaches for example, the microlens is a diffractive or refractive lens structure (col. 12, ln. 20-21). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the microlens of Otsuka with refractive or diffractive structure of Gal in order to produce a controlled dispersion of light.

Conclusion

Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ray et al. (5701008) disclose a microlens between a substrate and photo detector (fig. 4).

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Uchida (6583438) discloses a microlens between a substrate and photo detector (fig. 1).

Kochi et al. (6188094) disclose a microlens between a substrate and photo detector (fig. 2).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Martinez whose telephone number is 703-305-0577. The examiner can normally be reached on M-F 7:00 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on 703-308-4883. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7724 for regular communications and 703-308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-4883.

JPM
July 27, 2003


Hung Xuan Dao
Primary Examiner